SINGAPORE REPORTS

PUBLIC PROSECUTOR v. AZIZ BIN WEE

[A.Cr.J. (Wee Chong Jin C.J.) November 28, 1973]
[Singapore — Magistrate's Appeal No. 89 of 1973]

Penal Code s. 506 — Criminal intimidation — Hawkers — Intimidation of public officer who was carrying out his official duties — Sentence — Mitigation.

The respondent pleaded guilty to the charge that he on 22.5.73 at about 10.45 a.m. at Somapah Road, Singapore, committed criminal intimidation by using a chopper and a knife to threaten one Kehar Singh with injury to his person with intent to cause alarm to the said Kehar Singh and had thereby committed an offence punishable under section 506 of the Penal Code (Cap. 103). On conviction he was fined $200 in default one month's imprisonment.

The complainant, Kehar Singh, was an overseer attached to the Ministry of Health. At the time in question, he and a party of officers from his ministry conducted a raid on unlicensed hawkers hawking at Upper Changi Road and Somapah Road, and when he saw the accused selling sugar-cane water, the complainant and his colleagues approached the accused and identified himself. The accused asked in Malay what the complainant wanted. The complainant told the accused that he wanted to seize his goods, whereupon the respondent shouted in Malay "Try kalau mahu angkat" which means "Try if you want to get it". As the complainant was about to seize the property the accused took up a knife and pointed it at the complainant and say in Malay "Mahu angkat". The accused's friend caught hold of the accused and took away the knife from him. The complainant then moved forward to take possession of the accused's property. The accused once again took up another knife and pointed it at the complainant and defied him to take possession of the property. Again the accused's friend intervened and took the knife from the accused's hand. At this juncture the accused was arrested by a police officer who was attached to the same Ministry. The officer seized the two knives and other exhibits and brought the accused to the police station.

Held: in the circumstances of the case a fine of $200 was manifestly inadequate. The sentence should be enhanced by the imposition of a term of imprisonment for 1 week, besides the fine.

MAGISTRATE'S CRIMINAL APPEAL.

Alan Wong (Deputy Public Prosecutor) for the appellant.

Respondent in person.

Wee Chong Jin C.J. (delivering oral judgment): There is really no mitigating circumstance in this particular case. Although the respondent was trying to earn a living, it must have been well known to him that he could not hawk without a licence and therefore doing something unlawful. The complainant was merely doing what his duties required him to do, namely preventing persons like the respondent from hawking without a licence. It is one thing trying to earn a living by hawking in spite of a law which says it cannot be done without a licence. That is wrong, and normally an offender would be punished, if found guilty, by a fine. But it is quite another thing if a public officer, in the carrying out of his duties, is prevented by a person who is already guilty of a statutory criminal offence, not only from carrying out his duties, but also is threatened in the way the respondent threatened him.

Now the threat was to cause injury to the complainant because the respondent picked up a dangerous weapon; he picked up a knife and beyond doubt anyone faced with the respondent holding that knife near to him while trying to do his duty must have been gravely alarmed. But the respondent's actions went further than that: when stopped, instead of realising that the law had to be enforced, when another attempt was made to seize the goods, in this case mere sugar cane water which the respondent was attempting to sell, the respondent again picked up another knife.

Now quite obviously the Magistrate was wrong in finding that the respondent picked up the knife merely to warn the complainant not to seize the goods and that he did not at any time attempt to hurt the complainant. The fact that when the complainant moved up towards where the respondent was, the respondent picked up the knife, pointed it at the complainant and used the words that he used is evidence that an attempt had commenced. It can also be inferred from his actions and the words uttered that it was not only a warning to the complainant but it was a warning accompanied by a threat that: "if you do it, you see I have got a knife in my hand which I will use".

This sort of offence under our criminal law carries with it a term of imprisonment up to a maximum of two years, and if it is accompanied by a threat to cause grievous hurt it can even extend to seven years. Of course if one picks up a knife and threatens harm to another, then the threat is to cause grievous hurt because a knife can cause grievous hurt.

In those circumstances, obviously a fine of $200 is manifestly inadequate. Public interest comes in, but the real gravamen of the offence are the very facts themselves: the fact that he picked up one knife and, when stopped, picked up another knife again. No court can ignore it and say that he was so upset because he had lost his means of livelihood. All he had lost was the prospect of continuing to sell iced sugar cane water on that day — morning, afternoon or night — but he could continue to earn a livelihood in any other way, a thousand other ways.

In those circumstances, on the facts of this case, the sentence must be varied. But I will temper it with mercy in his case, and I hope the message will go to those who hawk in those circumstances: that if they do try to intimidate public servants they are almost certainly bound to be sent to prison, that it will be a real deterrent.

So I will impose a term of imprisonment for one week, besides the fine.

Order accordingly.